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# BEFORE THE BOARD OF PATENT APPEALS
## AND INTERFERENCES

Application Number: 09/668,039
Filing Date: September 21, 2000
Appellant(s): BEYDA, WILLIAM J.

_____
David Chung
For Appellant

## SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed February 11, 2008 appealing from the Office action mailed

April 17, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which

will directly affect or be directly affected by or have a bearing on the Board's decision in the pending

appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief

is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 6,914,691 | Sato | 7-2005 |
| 6,704,797 | Fields et al | 3-2004 |

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

## *Claim Rejections - 35 USC § 103*

1.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented
> and the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.      Claims 1-5, 14-18, and 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Fields et al (U.S. Patent No. 6,704,797) in view of Sato (U.S. Patent No. 6,914,691).

3.      As per claim 1, Fields et al teach an electronic messaging system for filtering electronic

messages, comprising

        a message server operable to receive and transmit electronic messages including electronic mail

messages **(column 3, line 65)** , the message server comprising an access restriction filter **(column 2, lines

40-58, column 6, lines 52-54)**;

        wherein the access restriction filter is configured to detect an access restriction notice in the

respective ones of the electronic messages, and, the access restriction filter being additionally configured

to respond to the detection of the access restriction notice in accordance with a prescribed transmission

policy for handling electronic messages containing the detected access restriction notice **(column 2, line

35—column 3, line 15).**

        Fields et al fail to teach the access restriction filter comprising a character recognizer configured

to translate characters in image components of respective ones of electronic messages into computer-

readable character representations and comparing the one or more translated computer readable character

representations respectively produced by the character recognizer to respective representations of one or

more access restriction notices stored-in memory. However, Sato teach a detection process for detecting

copyright restriction characters on images and executes pattern matching with characters stored in

memory to impose stored restriction policies, such as prevent copying of the image **(column 8, lines 9-34).**  It would have been obvious to one of the ordinary skill in the art to combine the teachings of Fields et al and Sato because doing so would create a way to detect copyright symbols on protected images and determine what restriction needs to be imposed on distribution of the protected image.

4.      As per claim 2, Fields et al teach wherein the access restriction filter is configured to detect in respective ones of the electronic messages an access restriction notice indicating ownership of at least a portion of the respective ones of the electronic message **(column 2, lines 35-60).**

5.      As per claim 3, Fields et al teach wherein the access restriction filter is configured to detect a copyright notice in respective ones of the electronic message **(column 1, lines 35-41, column 6, lines 50-54).**

6.      As per claim 4, Fields et al teach wherein the access restriction filter is configured to detect the copyright notice by comparing one or more characters in the respective ones of electronic messages to respective characters of one or more copyright notices stored in memory **(column 2, line 35—column 3, line 15).**

7.      As per claim 5, Fields et al teach wherein the access restriction filter is configured to detect the copyright notice by comparing characters in header component of the respective ones of electronic messages with respective characters of the one or more stored copyright notices **(column 4, lines 44-67, column 5, lines 1-5, column 4, lines 25-31).**

8.      As per claim 30, Fields et al fail to explicitly teach wherein the access restriction filter is configured to detect at least one of the following access restriction notices in the electronic messages: a "confidential" notice, an "internal use only" notice, an "attorney-client privileged" notice, and an "attorney work product" notice. However, Sato teaches a method to detect character strings, which indicate, "Production copy unauthorized" or "This image is production so cannot be copied". The detecting process extracts the character string data and recognizes the concerned data string using a

character recognizing means **(column 8, lines 23-35).** It would have been obvious to one of the ordinary

skill in the art to combine the teachings of Fields et al and Sato because doing so would create a way to

detect copyright symbols on protected images and determine what restriction needs to be imposed on

distribution of the protected image.

9.      As per claim 33, Fields et al teach wherein at least one of the electronic message comprises a

primary message and at least one attachment, and the access restriction filter is configured to compare

characters in the primary message and characters in the at least one attachment to respective characters of

the one or more stored access restriction notices **(column 4, lines 34-39, column 6, lines 1-4, column 5,**

**lines 40-41).**

10.      As per claim 34 and 36, Fields et al fails to teach wherein the access restriction filter is

configured to trigger display of a report to a user in response to the detection of the access restriction

notice. However, Sato teaches that the user or host computer is given a warning display to notify the user

that the image specified is protected **(column 9, lines 12-22, column 10, lines 1-10).** It would have been

obvious to one of the ordinary skill in the art to combine the teachings of Fields et al and Sato because

doing so would create a way to detect copyright symbols on protected images and determine what

restriction needs to be imposed on distribution of the protected image and notify the user of that

restriction.

11.      As per claim 35 and 37, Fields et al fail to teach wherein the access restriction filter is configured

to trigger display of a report to a user a message reporting that a corresponding one of the electronic

messages cannot be transmitted because of the detection of the access restriction. However, Sato teaches

that the user or host computer is given a warning display to notify the user that the image specified is

protected **(column 9, lines 12-22, column 10, lines 1-10).** It would have been obvious to one of the

ordinary skill in the art to combine the teachings of Fields et al and Sato because doing so would create a

way to detect copyright symbols on protected images and determine what restriction needs to be imposed

on distribution of the protected image and notify the user of that restriction.

12.      As per claim 38, Fields-Sato teach wherein character recognizer configured to translate characters

in image components of respective ones of electronic mail messages into computer-readable character

representations, and the access restriction filter is configured to detect an access restriction notice in the

respective ones of the electronic mail messages by comparing the one or more translated computer-

readable character representations respectively produced by the character recognizer to respective

representations of one or more access restriction notices stored in memory **(Fields: column 2, line 35—**

**column 3, line 15;** the requested image is parsed and compared to stored policy, **Sato: column 8, lines 9-**

**34;** detecting copyright restriction characters on images and executes pattern matching with characters

stored in memory to impose stored restriction policies .

13.      As per claims 14-18, 29, 31, and 32, these claims contain similar limitations as claims 1-5 and 30

above therefore are rejected under the same rationale.


         **(10) Response to Argument**

         Appellant is reminded that claims must be given their broadest reasonable interpretation

consistent with the specification (MPEP ch. 2111) and that a prior art reference must be considered in its

entirety (MPEP ch. 2142.02).


         <u>**Argument A:**</u> *Fields' access manager does not detect an access restriction notice in such a client*

*web browser request; the access manager only compares the client specific data in a given client to the*

*policy rules criteria that are stored on the server; none of the client specific data constitutes an "access*

*restriction notice" within the ordinary and accustomed meaning of the term.*

In response, the Examiner respectfully disagrees. Fields teaches a method to protect images via a server-based policy **(see at least column 2, lines 37-38).** When a client requests and image or a web page containing the image, the method parses the request and examines the image. A rule for the image is evaluated against client specific data. If the condition is satisfied an image restriction is imposed **(see at least column 2, line 36-column 3, line 15, column 7, lines 40-67).** Fields uses client specific data associated with the client request to the server to determine if the page or image has an associated distribution policy **(see at least column 6, lines 1-26, column 4, lines 15-43, fig 3).** The Appellant's argument that none of the client specific data constitutes an "access restriction notice within ordinary and accustomed meaning of the term" is unpersuasive. It is unclear what the Appellant has based his meaning of the term on since it is not clearly defined in the Appellants specification and it is not a term which has a specific well known definition in the technological arts. Given the broadest reasonable interpretation consistent with the specification, Fields et al's determination of whether an image or page has a distribution policy meets the scope of the claimed limitation.

**Argument B:** *Neither Fields nor Sato discloses or suggests an "access restriction filter is configured to detect an access restriction notice in the respective ones of the electronic messages".*

In response, the Examiner respectfully disagrees. Fields teaches a method to protect images via a server-based policy **(see at least column 2, lines 37-38).** When a client requests and image or a web page containing the image, the method parses the request and examines the image. A rule for the image is evaluated against client specific data. If the condition is satisfied an image restriction is imposed. **(See at least column 2, line 36-column 3, line 15, column 7, lines 40-67).** Fields uses client specific data associated with the client request to the server to determine if the page or image has an associated distribution policy **(see at least column 6, lines 1-26, column 4, lines 15-43, fig 3).**

**Argument C:** *One skilled in the art would not have had any apparent reason to combine the references in the manner proposed by the Examiner.*

In response to applicant's argument that there is no suggestion to combine the references, KSR forecloses the argument that a **specific** teaching, suggestion, or motivation is required to support a finding of obviousness.

The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Fields et al teach a method to protect images via a server based policy **(abstract)** to protect a copyright owner's exclusive reproduction rights **(column 1, lines 35-52).** Sato teaches a method of protecting copyrighted images by detecting digital watermarks or DO NOT COPY symbols **(figs 7, 14)**. Fields et al fail to teach the access restriction filter comprising a character recognizer configured to translate characters in image components of respective ones of electronic messages into computer-readable character representations and comparing the one or more translated computer readable character representations respectively produced by the character recognizer to respective representations of one or more access restriction notices stored-in memory. However, Sato teach a detection process for detecting copyright restriction characters on images and executes pattern matching with characters stored in memory to impose stored restriction policies, such as prevent copying of the image **(column 8, lines 9-34).** It would have been obvious to one of the ordinary skill in the art to combine the teachings of Fields et al and Sato because doing so would create a way to detect copyright symbols on protected images and determine what restriction needs to be imposed on distribution of the protected image. The claims recite combinations which only unite elements with no

change in their respective functions and which yield predictable results. Thus the claimed subject matter

likely would have been obvious under *KSR*.


      **Argument D:** *Fields does not teach "the access restriction filter is configured to detect a*

*respective ones of the electronic messages an access restriction notice indicating <u>ownership of at least a</u>*

<u>*portion of the respective ones of the electronic messages*</u>*"*

      In response, the Examiner respectfully disagrees. The detecting of images that contain watermark

or company logos indicates ownership of an image **(column 2, lines 51-53, column 5, lines 40-67).**


      **Argument E:** *Fields does not teach "the access restriction filter is configured to detect a*

*copyright notice in respective ones of the electronic messages"*

      In response, the Examiner respectfully disagrees. Fields teaches a method to protect images via a

server-based policy **(see at least column 2, lines 37-38).** When a client requests and image or a web page

containing the image, the method parses the request and examines the image. A rule for the image is

evaluated against client specific data. If the condition is satisfied an image restriction is imposed. **(See at**

**least column 1, lines 35-67, column 2, line 36-column 3, line 15, column 7, lines 40-67).**


      **Argument F:** *Fields does not teach "the access restriction filter is configured to detect the*

*copyright notice by comparing one or more characters in the respective ones of the electronic messages*

*to respective characters of one or more copyright notices stored in memory"*

      In response, the Examiner respectfully disagrees. Fields teaches a method to protect images via a

server-based policy **(see at least column 2, lines 37-38).** When a client requests and image or a web page

containing the image, the method parses the request and examines the image. This data is then compared

to the distribution criteria in the rule **(see at least column 3, lines 11-12, column 5, lines 27-30).**

     **Argument F**: *Fields does not teach "the access restriction filter is configured to detect the copyright notice by comparing characters in a header component of the respective ones of the electronic messages with respective characters of the one or more stored copyright notices."*

     In response, the Examiner respectfully disagrees. Fields et al teach that a client specific data can include a client machine IP address, image URL, and user authentication which are all known to be stored in the header component of an electronic message **(see at least column 4, lines 25-33, column 6, lines 1-10, column 5, lines 57-60).** Also, Fields teach that a server that implements the image protection scheme can examine the header of an image request to determine appropriate action **(column 5, lines 1-5)**

     **Argument G**: *Fields does not teach "at least one of the electronic messages comprises a primary message and at least one attachment, and the access restriction filter is configured to compare characters in the primary message and characters in the at least one attachment to respective characters of the one or more stored access restriction notices."*

     In response, the Examiner respectfully disagrees. Fields et al teach that the server performs the restriction policy on requested web pages that include images **(column 6, lines 1-4, column 5, lines 40-41, column 4, lines 34-39).**

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals

and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ramsey Refai/

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